

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6394

BILL NUMBER: SB 144

NOTE PREPARED: May 1, 2003

BILL AMENDED: Apr 24, 2003

SUBJECT: Sexual Misconduct with a Minor.

FIRST AUTHOR: Sen. Bowser

FIRST SPONSOR: Rep. L. Lawson

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) The bill removes certain defenses related to sexual misconduct with a minor. It makes the offense of sexual misconduct with a minor that involves deadly force, a deadly weapon, or a drug or controlled substance a "crime of violence" for purposes of the law concerning consecutive and concurrent sentencing where the defendant is at least 18 years of age and the victim is 14 or 15 years of age.

Effective Date: July 1, 2003.

Explanation of State Expenditures: The bill involves two sexual misconduct with a minor offenses which are punishable as a Class A felony and a Class B felony.

Two defenses available under current law to a charge of sexual misconduct with a minor include the accused reasonably believing that the child was at least 16 years of age, or the child being or having been married. Under the bill, the defenses would not apply when deadly force, a deadly weapon, or a drug or controlled substance is used. By eliminating the defense, more offenders would be committed to a state facility if one of the defenses would have been used otherwise.

Also, under the bill, sexual misconduct that includes fondling or touching as the result of the use of deadly force, a deadly weapon, or a drug or controlled substance would be included in a list of offenses for which a judge may choose to sentence an offender to a consecutive sentence. If an offender serves a consecutive sentence rather than a concurrent sentence, the length of incarceration may increase, and costs to house the offender would increase.

A Class A felony is punishable by a prison term ranging from 20 to 50 years and a Class B felony is punishable by a term ranging from 6 to 20 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class A felony offenders is approximately 9.1 years, and the average for all Class B felony offenders is approximately 3.7 years.

Explanation of State Revenues: The maximum fine for both a Class A felony and a Class B felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies; County Office of Family and Children.

Information Sources: Indiana Sheriffs Association, Department of Correction.

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